

1 IN THE UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF TEXAS

3 EL PASO DIVISION

4 VOLUME 16B of 16A-B OF 20

5
6 UNITED STATES OF AMERICA

EP:13-CR-0370-DCG

7 v.

EL PASO, TEXAS

8 MARCO ANTONIO DELGADO

September 20, 2016

9 **CLOSING ARGUMENTS**

10 THE HONORABLE DAVID C. GUADERRAMA

11 UNITED STATES DISTRICT JUDGE

12
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25 transcript produced by computer-aided software and computer.

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2 (Open court. Defendant and counsel present.)

3 (Jury present.)

4 CLOSING ARGUMENT BY THE GOVERNMENT

5 MR. ARREOLA: May it please the Court, defense counsel
6 ladies and gentlemen of the jury.

7 During the course of this trial, you have heard
8 overwhelming evidence that the defendant, Marco Delgado, stole
9 millions of dollars. As part of this scheme, you heard that he
10 diverted payments that were supposed to go to the client,
11 F.G.G., and directed them to an offshore account in the Turks
12 and Caicos Islands where he controlled the money. And you also
13 heard that as part of this same scheme, he pledged M.P.S.A. or
14 Mitsubishi's equipment as a substitute for the letters of credit
15 without Mitsubishi's knowledge or permission. And the evidence
16 showed that the reason he did this, the reason he pledged the
17 equipment is because the letters of credit would have cost money
18 and that would have been less money in the Turks & Caicos
19 account.

20 My purpose today and that of my colleague AUSA Kanof,
21 is to review the evidence that you have seen and heard during
22 the course of this trial and to organize it so that you can see
23 how it proves beyond a reasonable doubt that the defendant,
24 Marco Delgado, is guilty of the offenses charged in the
25 indictment.

1 Let's start by reviewing the evidence regarding the
2 first part of Mr. Delgado's scheme, directing funds to the
3 offshore account in the Turks and Caicos Islands.

4 To begin with, let's take a look at the contract,
5 Government Exhibit 18A. This contract was signed by Mr. Delgado
6 in early January, 2010, and paragraph 14 of that contract
7 contained a provision identifying the specific bank accounts
8 into which funds were supposed to be deposited. That was
9 F.G.G.'s Wells Fargo account right here in El Paso.

10 What happened next?

11 Government's Exhibit 43A is the document that
12 Mr. Delgado submitted to C.F.E. directing that paragraph 14 of
13 that contract be changed and that the monies instead be sent via
14 electronic transfer to an account at First Caribbean in the
15 Turks & Caicos Islands. Government's Exhibit 43A is the
16 translation of that document. Government Exhibit 43 is the
17 original Spanish language version showing a signature for
18 Mr. Delgado.

19 Next what happened as a result of this document, which
20 was dated March 3rd, 2010, in the top right and received by
21 C.F.E. on March 4th? Five days later, March 9th, 2010, in
22 Government Exhibit 2, you see the first payment from C.F.E. of
23 \$20 million going into the Turks & Caicos account.

24 What happened after Delgado, Mr. Delgado changed the
25 account and assigned all of the payments to Skippings and

1 Rutley? Did Mr. Delgado tell F.G.G.? Did he tell M.P.S.A.?
2 No. The evidence showed that he concealed the fact that the
3 money had been deposited and he also sent a fraudulent document
4 indicating that C.F.E. wanted to reduce the amount of the first
5 payment.

6 Let's take a look at Government Exhibit 47A. This is
7 an e-mail that Mr. Delgado sent on March 12th, three days after
8 the first deposit of \$20 million. It was an e-mail sent to
9 Mr. Ponce. And it's purported to be from somebody at C.F.E.
10 sending a revised schedule of payments. Government Exhibit 47A
11 is the English and Government Exhibit 47 is the original Spanish
12 version.

13 Attached to that e-mail was this chart, and Mr. Ponce
14 explained to you what the chart meant based on Mr. Delgado had
15 told him. The first column price offered \$121 million.
16 Underneath that, you'll see a schedule of payments starting with
17 20 and the next being 12, and that was the original schedule of
18 payments under the prime contract between F.G.G. and Mitsubishi.

19 And next to that are two other columns; Options A and
20 Options B. And what did Mr. Delgado represent to Hector Ponce
21 that these were? He indicated that C.F.E. wanted to revise the
22 schedule of payments. Under Option A, the first payment would
23 be 15 and under Option A, the second payment would be 7. What
24 Mr. Ponce did not know is that the first payment of \$20 million
25 was already sitting in the Turks & Caicos account.

1 Mr. Ponce told you that after he received this and
2 spoke with Mr. Delgado, Mr. Delgado asked him, which would be
3 acceptable to Mitsubishi and Mr. Ponce said neither. And so as
4 a result of that, there was a face-to-face meeting in Orlando,
5 Florida, between Mitsubishi and F.G.G., who was represented by
6 Mr. Delgado and Mr. Gireud. And Hector Ponce told you that at
7 this meeting, Mr. Delgado again represented that F.G.G. wanted
8 to revise the schedule of payments.

9 What happened next?

10 On March 22nd, 2010, there's an e-mail stream
11 beginning with an e-mail from Mr. Gireud to Hector Ponce copying
12 Mr. Delgado. And in that e-mail chain is an e-mail from Hector
13 Ponce to Mr. Gireud, and highlighted on this, Government
14 Exhibit 40A, Mr. Ponce wrote that the parties agree to accept
15 Option A of the attached C.F.E. payment schedule. This was
16 after the Orlando meeting and there's a reference to the Orlando
17 meeting in this e-mail.

18 What happened next? After March 22, 2010, when
19 Mr. Gireud sent this e-mail copying Mr. Delgado, Government
20 Exhibit 2 shows that the first disbursement of funds from the
21 Turks & Caicos account was made to Ener Proyectos in the amount
22 of \$2 million. Let's look at what happened next after the
23 disbursement to Ener Proyectos.

24 Government Exhibit 50A, shown on the screen, is an
25 e-mail from Mr. Delgado to John Adams and others. It's dated

1 March 25th, 2010. Now over two weeks have passed since the
2 \$20 million hit the Turks & Caicos account. And what does
3 Mr. Delgado say to Mr. Adams and Mr. Gireud? He said, attached
4 please find C.F.E. confirmation of revised payment plan. This
5 allows us to proceed with the assignment of collection rights
6 prior to the issuance of first payment. What Mr. Adams and
7 Mr. Gireud did not know is that C.F.E. wasn't revising the
8 payment plan. The money was already in the account. The full
9 payment of \$20 million was already in the account and the
10 evidence showed that Mr. Delgado had already disbursed
11 \$2 million from that account.

12 What happened next?

13 Also attached to that exhibit, by the way, is the
14 chart, an altered letter from C.F.E. indicating that the amount
15 of the first payment was \$15 million, and earlier today you saw
16 government exhibit -- I don't have the exhibit number handy --
17 but you saw the actual document from the C.F.E. files, which
18 shows that the schedule of payments was as originally stated in
19 the contract and that this is an altered document.

20 What happened after that e-mail?

21 Government Exhibit 52 is an e-mail again from
22 Mr. Delgado to Mr. Adams and Mr. Gireud. The date on that
23 e-mail was March 26th. And what does Mr. Delgado say? Let's
24 take a closer look. Attached, please find format for wire
25 transfer instructions as required by C.F.E. Bancomext and

1 investor. This needs to be filled out by you exactly as
2 provided by the format and return to me ASAP, so I can finalize
3 assignment of collection rights and secure issuance of first
4 payment by due date.

5 Ladies and gentlemen of the jury, the government
6 submits this is one example of Mr. Delgado's misrepresentations
7 in this case. Why? Because the evidence showed that he wasn't
8 trying to secure assignment of collection rights. He had
9 already assigned collection rights to Skippings and Rutley. And
10 he wasn't trying to secure issuance of the first payment,
11 because the first payment had already been made more than two
12 weeks earlier.

13 What does he say next?

14 Assigned payment will be issued directly to Mitsubishi
15 Power Systems America by trust. The government submits that
16 this is another example of a misrepresentation by Mr. Delgado,
17 because the payments had already been issued to the Turks &
18 Caicos account and it wasn't going to be issued by the Mexican
19 trust or the Fideicomiso.

20 I'm going to go back to this letter in a moment.

21 What happened next?

22 So did Mr. Delgado notify Mitsubishi Powers Systems
23 America and Mr. Gireud that the money had already arrived? No.
24 The evidence showed that on April 1st, 2010, the first
25 disbursement to F.G.G. arrived -- was made to F.G.G. and arrived

1 in the account in El Paso. And after that, Mr. Miller, the
2 in-house counsel for F.G.G. and F.G.G.'s owner, Mr. Gireud,
3 realized that money was coming from the Skippings and Rutley
4 account. So they told you that they then called the law firm
5 Skippings and Rutley to find out if this was an F.G.G. account.
6 And Mr. Gireud told you that he was unable to get any
7 information about this account that held the money.

8 What happened next?

9 Mr. Gireud and Mr. Miller also told you that they took
10 a trip to Mexico after they realized what was going on and they
11 tried to get the account changed bank. Mr. Gireud recalled
12 going twice, and on the second trip he told you that he
13 presented to an official, Mr. Ramos at C.F.E., a copy of the
14 this document, a revocation of special power of attorney,
15 Government Exhibit 66, and that he also presented Government
16 Exhibit 77, a document directing that the funds be changed back
17 to the account here in El Paso. Government Exhibit 77A is the
18 English translation and the original is in Government
19 Exhibit 77. Did this work? Did the account change back? The
20 date on this document is May 11th, 2010. Did that happen, did
21 it cause the account to get changed back in F.G.G.? Ladies and
22 gentlemen you know the answer.

23 Government Exhibit 2 shows that the next payment from
24 C.F.E. in the amount of \$12 million instead went on July 6th,
25 2010, to the Turks & Caicos account.

1 You also heard evidence during this case about a
2 memorandum of understanding and a power of attorney that
3 Mr. Gireud signed. Do these documents give Delgado permission
4 to direct payments from F.G.G. to an offshore account in the
5 name of Skippings and Rutley? Do these documents give
6 Mr. Delgado permission to hide the fact that the first payment
7 had been made and to misrepresent how much that first payment
8 was? The government submits that the memorandum of
9 understanding and the power of attorney did not give him any
10 such permission. Let's take a look.

11 Government Exhibit 8 is the memorandum of
12 understanding. I'm going to call it M.O.U. for short. What
13 does it say? Government submits that all this says is how much
14 he's going to get paid and when he's going to get paid. Let's
15 take a look at paragraph three, which says that D. And A. will
16 receive an amount equal to 62-and-a-half-percent. In other
17 words, that goes to how much he's going to get paid.

18 Let's take a look at paragraph four, which talks about
19 the amount and when it will become due and payable. Again that
20 goes to when he's going to get paid. But the government submits
21 that there's nothing in this document that gave Mr. Delgado the
22 right to divert the payments or to misrepresent when the first
23 payment had arrived or the amount and that nothing in this
24 document give him permission to go on a spending spree with the
25 money in the account.

1 Let's take a look at the Power of Attorney, government
2 Exhibit 34. Who does this give Mr. Delgado? It says here that
3 Mr. Delgado may execute and deliver the company's response to
4 the public bid and negotiate and execute any and all contracts
5 deriving from said public bid. Does that authorize him to
6 change the account for all payments to F.G.G.? Does that
7 authorize him to conceal how much money was deposited in the
8 account? Does that authorize him to misrepresent the amount of
9 money in the account? The government submits that it did not.

10 How else do we know that the M.O.U. and the Power of
11 Attorney didn't give Mr. Delgado authorization to do what he
12 did? The evidence showed that Mr. Delgado himself knew that he
13 did not have any such authorization. For example, you heard
14 from Mr. Delgado's accountant, Linda Medlock. She's the lady
15 that had the British accent. And she told you that Mr. Delgado
16 represented that the money in the Turks & Caicos was from a line
17 of credit. In other words, it was money being borrowed from the
18 bank. And she also told you she was preparing his tax return
19 and she needed to know if it was income that needed to be
20 reported. And she also said if it's money borrowed from the
21 bank, it doesn't get reported to the IRS. If Mr. Delgado
22 believed that the money in the Turks & Caicos was part of his
23 62-and-a-half-percent share, then why would he tell Ms. Medlock
24 that it was a line of credit? The government submits that you
25 know the answer; it's that Mr. Delgado knew it wasn't his

1 income. It wasn't money that he had a right to spend. But
2 that's not all.

3 There was other evidence that demonstrates that
4 Mr. Delgado knew that the M.O.U. and the Power of Attorney
5 didn't give him a right to do what he did. Let's take a look
6 again at Government Exhibit 52.

7 THE COURT: Five minutes, Ms. Arreola.

8 MR. ARREOLA: I'm going to go ahead and skip that.

9 Ladies and gentlemen of the jury, there was another
10 aspect to this scheme, which is the fraudulent John Adams'
11 letter. And you heard from multiple witnesses, who told you and
12 whose testimony established that this letter was fake. For
13 example, you heard from John Adams who said he never saw, he
14 never signed, he never approved the letter and he didn't see it
15 until after he had left Mitsubishi.

16 You also heard from Ms. Davila, the young woman who
17 worked at UPS, and she told you that that did not look like her
18 signature and the date did not look like her handwriting.

19 And you also heard from F.G.G., Mr. Gireud and Hector
20 Ponce. They told you that they hadn't seen this letter either
21 until much later after the fact.

22 Now that we've gone over the scheme, I wanted to touch
23 on some of the specific counts in the indictment. Counts One
24 and Two charge wire fraud. And these relate to the two
25 transmissions from the Turks & Caicos -- excuse me -- from

1 Bancomext to the Turks & Caicos account. Some of the evidence
2 showing these international wire transfers are Government's
3 Exhibit 43A, per Mr. Delgado's request that it be sent to the
4 Turks & Caicos. And mind you that is also on this document sent
5 via Wachovia Bank, a bank in the United States.

6 Government Exhibit 1 has the wire fraud transferred
7 credit advice, in other words, that the transfer happened.
8 There's a credit advice for both the \$12-million and the
9 \$20-million transfers in Government's Exhibit 1.

10 Also there's the documents received pursuant to the
11 Mutual Legal Assistance Treaty. And those are Government
12 Exhibits 46 and 84. These show the international route that the
13 transfers took. And they begin with the March 8th, 2010, being
14 sent that date representing when the transfer was initially sent
15 and the route it took through the United States. Also, you saw
16 Government Exhibit 143, which was Wells Fargo, regarding that
17 transaction.

18 Count Three also charges wire fraud. And that
19 particular wire relates to the e-mail that Mr. Gireud sent
20 regarding the letters of credit. Let's take a quick look. This
21 is the e-mail that's in Count Three. It's an e-mail for
22 Mr. Gireud to Mr. Delgado sent December 11th, 2010, and it
23 responds to the January 12th letter from John Adams.

24 Now, how do you know that Mr. Delgado caused this
25 e-mail to be sent? You saw that on January 12th on Government

1 Exhibit 35, Mr. Delgado received an e-mail from Hector Ponce,
2 which attached the January 12th John Adams' letter and that John
3 Adams' letter contained Mitsubishi's concerns that their
4 equipment was being pledged. Did Mr. Delgado respond to this
5 e-mail himself? No. Let's look at Government Exhibit 35. What
6 did he do? He sent it to Mace Miller and says it's all yours.
7 Mind you this is January 12th, two days after the John Adams'
8 letter purportedly authorizing the pledge and three days before
9 Mr. Delgado pledged the equipment.

10 The evidence also showed that this e-mail was sent
11 from an account from a computer here in El Paso. That's
12 Mr. Gireud who sent it, and that it traveled to Virginia,
13 because it was sent to Mr. Delgado's AOL account, and you heard
14 evidence that the AOL servers are located in Virginia.

15 Now, Counts Four through Ten charge money laundering.
16 The indictment charges money laundering for seven of the
17 transfers from the Turks & Caicos account to the Linda Medlock
18 account here in El Paso. The evidence showed that Ms. Medlock
19 asked Mr. Delgado to please put his name on the account and he
20 didn't. The evidence shows that he told her it was a line of
21 credit.

22 Why did Mr. Delgado transfer money from the from Turks
23 & Caicos to El Paso? The government submits that the evidence
24 showed that the reason he did it was because there was an
25 account here in El Paso that he controlled, but it wasn't in his

1 name. In other words, he brought it here to conceal who
2 controlled it and who owned the funds. And the government also
3 submits the reason he told her it was a line of credit was to
4 conceal the nature of the money, in other words, that it was
5 stolen money.

6 Counts Eleven through 20, money laundering through
7 spending. There are nine counts in the indictment that charged
8 Mr. Delgado with conducting a transfer in an amount over \$10,000
9 in criminally derived property, and all of these transfers are
10 in Government Exhibit 1, which are the Turks & Caicos account
11 bank record from First Caribbean.

12 THE COURT: 20 minutes.

13 MR. ARREOLA: May I have three minutes?

14 Count Eleven, for example, is a \$375,000 transfer to
15 Sheral Maloy, and this is an example of a page from Government
16 Exhibit 1. It shows the route that the funds took.

17 By the way, Government Exhibit 147 are the Rio Bravo
18 Title records for that transfer, and they show what the money
19 was spent on. There's a purchaser statement showing that the
20 money was spent for Mr. Delgado's purchase of the property at
21 1109 Cerrito Feliz.

22 Count Twelve charges a transfer for \$200,000 to
23 Carnage Mellon. And again this is an example of what's in
24 Government Exhibit 1, showing the route that transfer took.

25 Also, by the way, Government Exhibit 151 are Carnage

1 Mellon record and they contain a document dated August 6th,
2 2009, from Mr. Delgado to Carnage Mellon, stating it's his plea
3 to pledge \$200,000 to the university to establish a fellowship
4 in his name.

5 The other transfers include the Charlotte's transfers,
6 all in amounts of over \$10,000. Government Exhibit 146 are
7 records from Charlotte's Furniture and those contain records of
8 the wire transfers. At the bottom of the document are
9 Charlotte's records confirming receipt of those wire transfers.

10 The remaining transfers that are charged in the
11 indictment for over \$10,000 are to First New Mexico Title, two
12 transfers relating to vehicle purchases and also to
13 Mr. Delgado's IOLTA account. These are all in Government
14 Exhibit 1.

15 Ladies and gentlemen, the government submits that if
16 you consider the evidence in this case and you apply the law as
17 instructed by Judge Guaderrama, then you will reach the only
18 verdict consistent with the overwhelming evidence in this case
19 and the with the law, which is the defendant, Marco Delgado, is
20 guilty of the offense as charged in the indictment.

21 THE COURT: Thank you, Ms. Arreola.

22 Ladies and gentlemen, we're going to recess for five
23 quick minutes and we'll come back with the defendant's closing.
24 We're going to recess for five minutes.

25 COURT SECURITY OFFICER: All rise.

1 (Break at 5:31 p.m. to 5:36 p.m.)

2 THE COURT: Let the record reflect that all members of
3 the jury are present, the United States through its assistant
4 United State's attorneys are present, the defendant and his
5 counsel are present.

6 Mr. Hanshew?

7 CLOSING ARGUMENT BY THE DEFENSE

8 MR. HANSHEW: May it please the Court, Government,
9 ladies and gentlemen of the jury.

10 \$121 million, that is what this case is really about.
11 I'm sure you all noticed every day the lawyers passing notes,
12 passing comments to the government throughout the trial, the
13 lawyers from M.P.S.A., the lawyers from C.F.E.

14 MS. KANOF: Your Honor, I'm going to object. I was
15 not passed one note from a lawyer from the gallery.

16 THE COURT: It's argument and the jury will recall
17 what the lawyers say is not evidence and should not be
18 considered.

19 MR. HANSHEW: And the government, working hand-in-hand
20 to shift the blame from everyone else involved in this business
21 deal on to Mr. Delgado.

22 And you definitely saw those lawyers sitting back
23 there. You saw their client point them out. And why are they
24 there? Why were they watching you? Why were they watching this
25 trial? Because this trial is all about their money. It's all

1 about these corporations coming in here to get more and more
2 money out of this business deal and to keep all the money that
3 you heard they've already received. And our government?
4 They're glad to play along with this charade. They are glad to
5 spend our resources helping these corporations out. Well,
6 frankly, you don't have to. It's your job to apply the
7 commonsense that the government told you about, that commonsense
8 to be applied to consider the facts and all of the facts.

9 Well, a lot happened sense last Monday. They told you
10 that the evidence will show that Mr. Gireud was the sole owner
11 and member of F.G.G. and that Delgado took all of his money.
12 They told you that M.P.S.A. entered into a subcontract and that
13 Delgado secretly put up their turbines as collateral, and that
14 to do all of this, somehow, Mr. Delgado was a rogue, sneaking
15 around behind M.P.S.A., sneaking around C.F.E. and sneaking
16 around F.G.G. It turns out you heard everyone was all the
17 wiser.

18 It turns out the government forgot to tell you the
19 full story about what happened here. But thankfully in our
20 system of American justice, the full truth has its way of making
21 its way out. And that truth is found by each and every one of
22 you carefully deliberating about the facts, all of the facts.
23 So as we go through the facts, I'm sure you-all are going to
24 decide the fact that Mr. Delgado should be found not guilty.

25 So let's start with one very, very interesting

1 observation by Mr. Gireud. Remember what he said? What he said
2 M.P.S.A. thought about them? They're a bunch of stupid
3 Mexicans, is what he told you. And boy, oh boy, we found out
4 M.P.S.A. sure thought that. M.P.S.A. held that subcontract
5 hostage against F.G.G., while all the while, Hector Ponce and
6 John Adams are out partying with caviar and champagne in Mexico
7 City. Were they working night and day like Mr. Delgado? You
8 heard that from the government's own witness. Nowhere to be
9 seen.

10 Were they carefully pouring over all of the thousands
11 of documents that were being submitted to C.F.E.? Well, Ponce
12 and Adams came here and they told you and insisted because they
13 never saw the documents was because F.G.G. wouldn't let them.
14 Well, ladies and gentlemen of the jury, it's a little hard to
15 read thousands of pages of energy contract documents, that
16 you've spent the last week, when you are putting down 20 drinks.
17 You heard that. You heard their expense reports. That's what
18 they were doing. Yet somehow, Ponce and Adams make their way to
19 this El Paso courtroom to tell you that all of this was
20 Mr. Delgado's fault.

21 We saw their expense accounts and that sure showed
22 otherwise. It wasn't just champagne and caviar. M.P.S.A. was
23 drunk with all of the money that they knew they were going to
24 get out of what they thought to be two groups of stupid
25 Mexicans; F.G.G. and C.F.E.

1 You'll remember that the Mitsubishi way. Remember
2 that tutorial we had the first day here with Mr. Beddard, the
3 one about the Mitsubishi way? You'll remember what Mr. Beddard
4 said. He explained that the F.G.G.-M.P.S.A.'s subcontract
5 wasn't even a contract in his mind, why it didn't have four
6 corners. And his opinion that M.P.S.A.-F.G.G. contract didn't
7 meet that standard. He even went on to seem to imply that this
8 poor subcontract must have been F.G.G.'s fault, which is a
9 pretty interesting admission, considering I'm sure you'll
10 remember Mr. Hector Ponce, M.P.S.A.'s south American expert on
11 the ground, come in here and tell you-all that he was
12 instrumental in drafting. And he also worked with Patrick
13 Altamura, apparently the only M.P.S.A. lawyer that was looking
14 at a contract, who by the way, you'll notice the government
15 never brought here. And Ponce made sure to emphasize that he
16 was the translator both literally and figuratively in putting
17 that subcontract together. Very, very curious indeed. The very
18 same subcontract that his boss back in England thought wasn't
19 even a contract.

20 And then you heard more about the Mitsubishi way,
21 which catch phrases like gray market and aftermarket products.
22 What we learned is that Mitsubishi built these same turbines
23 nearly a decade earlier. They got paid for them by some other
24 customer. They never delivered them, but they kept the
25 payments.

1 MS. KANOF: Your Honor, I would object. That assumes
2 facts not in evidence. What they said was those people went
3 bankrupt and couldn't pay for them.

4 THE COURT: Right.

5 Mr. Hanshew, I don't recall hearing that particular
6 testimony. If any member of the jury does, you'll recall what
7 the testimony was from that witness.

8 MR. HANSHEW: Thank you, Judge.

9 And you heard that they were going to pass those off
10 as new, because they weren't used. They're new. Oh, you'll
11 remember, they are also rusty, by the way. Mr. Beddard wasn't
12 supposed to tell you that. But that wasn't enough for M.P.S.A.
13 Nope. You'll recall that Mr. Beddard came in here and explained
14 Mitsubishi didn't like subcontracts and they rarely used them.
15 He hardly ever worked on them. And Ponce explained the same,
16 that same Mitsubishi sentiment when he invited all of you,
17 remember, to join in on his hypothetical contract about
18 middlemen? Yep, those pesky middlemen. That's exactly the way
19 that M.P.S.A. viewed F.G.G. And they had no intention of ever
20 letting these middlemen from El Paso get in the way of all of
21 the money they could make. So how do you cut out the middleman?

22 Well, pretend you have no idea of -- about anything
23 and everything around you. Pathetic subcontract written in
24 Spanish between two American companies? No problem. Never get
25 a chance to see, let alone review the bid proposal or the prime

1 contract? No problem. The partners you suspect are putting up
2 your property without your knowledge? No problem. And think
3 about that last one.

4 M.P.S.A. claims that on the one hand that it had no
5 idea what F.G.G. was doing with C.F.E., but then wait, one night
6 in December near Christmas, they start to suspect the worst, is
7 what they tell you, that F.G.G. was actually putting up their
8 property as collateral. And then you hear what's M.P.S.A.'s
9 response to that? Refused to execute the contract? Move to
10 terminate the contract? Pick up a phone and call C.F.E.? Nope.
11 Nothing of the sorts, none of that.

12 Instead, what does M.P.S.A. do? What do they do at
13 that moment? If you were to believe them at that moment, that's
14 the first time they suspect this? They open the doors and send
15 C.F.E. in to go inspect their equipment. And it's not like
16 C.F.E. had to walk across the street in Mexico. They had to fly
17 across the world to France, to Japan, and nowhere in that time
18 do you see C.F.E. say, oh, let's stop this. Let's talk about
19 breach, let's talk about terminating this contract. No. Open
20 our doors. Come on in. There's the equipment that we know
21 you're going to use as collateral. That's what they do.

22 So speaking to that Mitsubishi way, Mr. Adams, he sure
23 personified that, didn't he? The only individual that the
24 government brought in claimed that the pledge letter was a
25 forgery in this case? No handwriting experts, no internal

1 investigations by M.P.S.A., just Mr. Adams.

2 First thing out, Mr. Adams can't even identify
3 Mr. Delgado. Tell me this. If you spent weeks working on a
4 contract for a \$100 million face-to-face in Mexico City, a
5 gentleman that you expensed out in your corporate account, and
6 that man stole your identity, stole your name and put your job
7 in danger, your employment in danger, you forget the face of
8 that man? Think about that.

9 But for Adams, he doesn't care about lying. He didn't
10 care about breaking company policy. For starters, he already
11 had another job lined up. He's out the door. And then he goes
12 to that job and what happens there? He's fired. I should say
13 he's offered to resign in lieu of termination. And because why?
14 Because he lied. He lied and he hid it from his employer, but
15 he would never have done that at Mitsubishi.

16 Now the government tried to massage the fact all he
17 had was a relationship with a co-worker. We found out on
18 cross-examination it was a subordinate and we found out it
19 wasn't just the policy of not disclosing. He had this
20 relationship and got caught for not telling the truth. That's a
21 lie. It's called lying.

22 You'll also remember Adams looking at, on direct
23 examination, the documentation, and pointing out evidently the
24 English grammarian about he would never write this in a business
25 letter. You'll remember he said, I'd never use L.C.; I always

1 use L.O.C. Well, you'll remember what happened on
2 cross-examination. Ms. Franco pulled out writing by Mr. Adams
3 and what does he use? L.C., the same term that he pointed out
4 in this supposedly forged letter that he would never have used.
5 That's a lie and lies there's a topic that these government
6 witnesses knew all too well. They'd like you to believe that
7 the lying was Mr. Delgado, but you heard and saw the evidence
8 otherwise.

9 Mr. Gireud, on direct examination, who wouldn't be
10 endeared to the older, sad, crying engineer, who kept his mantra
11 of he was my friend, he was my lawyer, he was my brother. I was
12 tempted frankly to be a little broken up about it if it wasn't I
13 knew the truth that he was hiding.

14 MS. KANOF: Objection, Your Honor.

15 THE COURT: Is there something with the evidence?

16 MS. KANOF: Giving his personal opinion about what he
17 knows the truth about.

18 THE COURT: If you know that from the evidence, I
19 guess you can tell us what the evidence is and what you believe
20 the truth to be, but if it's something outside the evidence,
21 I'll sustain the objection.

22 MR. HANSHEW: The truth that what you know, which is
23 that Gireud came to the government with one of his many lawyers
24 in hand. The truth was that he only spoke to the government
25 when he had what he thought was an immunity agreement from his

1 own criminal activities. And boy oh boy did Gireud forget to
2 tell his truth about his exploits at F.G.G. In fact, a bunch of
3 truths were missing from his direct examination.

4 He forgot to tell you that he hid \$2 million from the
5 IRS. He forgot to tell you that he never actually set up a real
6 escrow account that was safe. He forgot to tell you that he
7 never told his business partners, Mace Miller, M.P.S.A., C.F.E.,
8 that he was already contractually obligated to pay Delgado an
9 estimated \$14 million out of that first C.F.E. disbursement. He
10 forgot to tell you that he never told those same attorneys about
11 the power of attorney that he issued to Mr. Delgado. And he
12 forgot to mention that his F.G.G. escrow account was used to pay
13 for the country club, Lacey's Jewelry, European vacations and
14 Hooters. And despite explaining on direct, all the monies he
15 paid Mace Miller and Mr. Delgado, he forgot to mention all of
16 the dozens of payments to himself and to his family, including a
17 \$3-quarter-of-a-million payment in his own investment fund. Now
18 he explains that was to pay himself back for what he paid in.
19 How much was that? Oh, he paid in \$200,000. Well, I'm no
20 engineer, but my lawyer math tells me that \$200,000 doesn't
21 equal \$750,000.

22 Now, speaking of lawyers, Gireud was pretty keen on
23 blaming his lawyer Mr. Delgado. And he had that speech down to
24 an engineered science. It was like clockwork. Every time
25 Mr. Gireud was confronted with why he should be held accountable

1 for his own decisions, read and signed a contract that delegated
2 big powers to Mr. Delgado -- he's my brother, he's my lawyer --
3 read and signed a tax form hiding \$2 million from the IRS -- my
4 accountant told me to do it; read and signed a contract,
5 62.5 percent of the profits to Mr. Delgado; he's my lawyer, my
6 friend, my brother, read and signed what he thought was an
7 immunity agreement with the government. I didn't have a chance
8 to read that document. My lawyer Mary Stillinger just told me
9 to sign it.

10 Perhaps most troubling, the -- I didn't understand
11 what it meant, because I am just a poor engineer that came from
12 Mexico. A poor engineer, by the way, who had a long lucrative
13 career at El Paso Electric here in the United States. The truth
14 is, Mr. Gireud had no problem find a lawyer from his team of
15 lawyers at any time. He even found a lawyer in Mexico who just
16 happened to be the spouse of an individual working on the C.F.E.
17 contract.

18 MS. KANOF: Objection, Your Honor. Mr. Vargas, the
19 union representative, was not working on the C.F.E. contract.

20 THE COURT: The jury will remember what the testimony
21 was about who that person was.

22 MR. HANSHEW: And what did you hear about Gireud with
23 those documents? Remember those documents, the ones where he
24 steals away that 62-and-a-half-percent that he was contractually
25 obligated too? Oh, he read those once. He understood those

1 once. He didn't have anyone to blame for that conveniently
2 because that's the one that gave him all the money.

3 So ladies and gentlemen of the jury, if you consider
4 that evidence, don't believe that I just didn't understand
5 routine. He understood that helping convict Mr. Delgado gets
6 him more money on top of all of the money that he already kept
7 and spent. Some brother, some friend of.

8 Now the government claims that Delgado somehow created
9 a Turks & Caicos account to hide the money and caused his
10 accountant, Ms. Medlock, to secretly keep an account with just
11 her name.

12 Now, the government's own chart they show you that
13 Government Exhibit 2, I believe it is, defies any attempt to
14 secret away the proceeds. It was open and known to all.
15 Delgado sent the money from that account, that Skippings and
16 Rutley's account to Gireud. He sent it to him. There's no
17 hiding of it. Straight to him. He even -- you saw a letter for
18 that second disbursement, did it in accordance to a letter that
19 Gireud himself wrote. Open and known.

20 As for Linda Medlock, she was free to open or not open
21 the account at any time. No one forced her to open this
22 account. And she was just as free to close any account that she
23 opened. Nobody forced her to do anything. More importantly,
24 you never heard from Medlock herself, this accountant with all
25 of these years of experience, that there was anything wrong with

1 this account. She set it up. In fact, despite the government's
2 attempt to repeatedly betray her as the poor, doting Jewish mum,
3 who just did all of the bookkeeping, accounting, family matters,
4 out of some form of charity, you remember they didn't tell you
5 on direct one important part of that; she paid herself \$60,000
6 over a seven-month period at her rate of \$200 an hour. You
7 heard from her. She charged \$200 an hour. She would have had
8 to work 42 hours a month, each month, for seven months just on
9 Delgado matters to earn that \$60,000. You saw the e-mails, the
10 totality of the e-mails, 93 e-mails. I mean you can do the
11 math. 93 e-mails, correspondence and electronically
12 transferring some money, \$60,000, well, I don't know about you,
13 but \$60,000 earned for the work you do is no charity. It's no
14 moral deed. She was an accountant and a bookkeeper and she was
15 being paid for doing those things.

16 And the Turks & Caicos account, all the reasoning
17 behind all of that is pretty darn simple and you heard it from
18 Mace. He explained that Mr. Delgado told him that he didn't
19 trust Fernando Gireud had set up that contractually obligated
20 escrow account. And lo and behold what do we find out? We find
21 out how true that was Mercedes, BMWs, Lexus for that sole member
22 of proprietorship, a \$3-quarters-of-a-million check for himself.
23 And all the while, was his wife as the signatory to do all the
24 same to that account. Of course there had to be another
25 account, an account from which Mr. Delgado actually paid F.G.G.

1 and M.P.S.A.

2 So some questions for you. Did the government tell
3 you about the Memorandum of Understanding giving Mr. Delgado an
4 estimated 14 million from that first disbursement? No. Did
5 they tell you about the Power of Attorney giving Mr. Delgado
6 broad authority over all things F.G.G., including collections of
7 monies from there? Did they tell you that Gireud used the
8 F.G.G. escrow account as his personal piggybank? No.

9 And did the government tell you that they gave Gireud
10 a pass from hiding those \$2 million from the IRS? No. Did the
11 government tell you that Adams was fired from his employer for
12 lying? No. Did the government tell you that many of its
13 witnesses were only testifying because they were
14 government-cooperators who had agreements? No.

15 Did they tell you its witnesses would profit
16 financially if they could help convict Delgado? No. Did the
17 government tell you at opening about the facts that those
18 turbines, the subject of this week-long trial, were sitting in
19 Agua Prieta right now? And did they tell you that C.F.E. and
20 M.P.S.A. executed a direct contract that cut out F.G.G. the
21 pesky middlemen? No.

22 Now, do these lies, omissions and ulterior motives
23 prove to any degree, let alone beyond a reasonable doubt, that
24 Mr. Delgado is guilty on any of the government's accounts? Of
25 course not. The government and its corporate allies, they made

1 this case because of money, but now you get to make the case
2 about justice and the only justice in this case is finding
3 Mr. Delgado not guilty on all counts.

4 The last thing I'll tell you, I don't have the last
5 word. The rules are the government gets to come up and explain
6 and talk to you about what I said here, but they don't get the
7 last word either. Each and every one of you has the last word
8 and those last words, you know what those last words should be
9 from this evidence? Not guilty, we actually find Mr. Delgado
10 not guilty on all counts.

11 THE COURT: Thank you, Mr. Hanshew.

12 Ms. Kanof, you have seven minutes.

13 MS. KANOF: Do you want me to proceed? I thought we
14 were going to take a break.

15 THE COURT: Well, for seven minutes...

16 MS. KANOF: Oh, okay.

17 Can I have a minute or two to set up?

18 THE COURT: Oh, of course.

19 FINAL CLOSING ARGUMENT BY THE GOVERNMENT

20 MS. KANOF: How were they going to profit? Where is
21 the money coming from? Makes absolutely no sense. The last
22 thing Ms. Arreola told you in the opening was use your
23 commonsense and the jury charge tells you to do that as well.

24 Did we just give you John Adams to say, no, I didn't
25 write this letter? No. Government's Exhibits 23 through 30 are

1 his passport, travel records, expense reports, T-Mobile records
2 showing that it was not the only phone that he had, which
3 belonged to Mitsubishi was not roaming in Mexico in January of
4 2010? Irais Davila, who said that's not her signature on that
5 letter and that she would never use a stamp that says this is a
6 true and correct copy of a document that was not an official
7 document, and her notary books where John Adams' signature is
8 not in there, so, no, we didn't leave John Adams out there on
9 his own.

10 He had a personal relationship. If you think that
11 because he didn't tell about some woman that he really liked,
12 that he was dating an employee makes him such a liar that he
13 would lie about pledging a document, ladies and gentlemen, then
14 you would have to take that into consideration in looking at
15 that piece of evidence, but there's a whole lot more.

16 Mr. Hanshew said the government called Mr. Delgado a
17 sneak. And you know what? He's right, because what do you
18 have? If you look at the transactions between the Turks &
19 Caicos account and Linda Medlock, you would never know
20 Mr. Delgado was involved. Goes from the Turks & Caicos account
21 in the name of Skippings and Rutley, and you think Mr. Skippings
22 and Mr. Rutley were sending Linda Medlock money? You would
23 never know that that money was \$700,000 that Mr. Delgado was
24 spending on himself and whatever else he wants.

25 Mr. Delgado told Linda Medlock that trip to Florence

1 was a business trip so that she would deduct it, but, no, it
2 wasn't a business trip. It was a family trip which ended up
3 picking his daughter up in Switzerland.

4 Somebody in this case knows how to use a snip tool.
5 We showed you how many false documents there were. And what's
6 really important is Government's Exhibit Number 52, because it's
7 from Mr. Delgado and it tells you the entire scheme. Why does
8 he not want them to have the right to -- collection directly
9 from C.F.E. to Mitsubishi? Because then he can't steal money.
10 Why does he want to lie and snip and paste a document that has a
11 chart in it that shows that money was retained and money was
12 given to a contractor when they weren't a contractor? So they
13 can keep that money. And where does he put that money? He puts
14 it into something called Ener Proyectos.

15 Government's Exhibit Number 85, you read that contract
16 in English. It is in Kevin Beddard's words, convoluted and
17 vague, because if you follow the circuitous route of that, that
18 money goes back to Mr. Delgado. No, Mr. Delgado got a whole lot
19 more than he was ever entitled to. No M.O.U. in the world, no
20 power of attorney allows an attorney to cheat his own client, to
21 keep his own client in the dark, to not tell him things.

22 The collection rights were important, because if the
23 money flew from Mexico to Japan, Mr. Delgado couldn't pull the
24 money out. And he said over and over again, there are many,
25 many e-mails. Yeah, yeah, yeah, you got it. You got it. We're

1 going to get it. And what do you find out in the very end?
2 It's 2012 and he wouldn't even give it then with at least
3 getting a half-a-million-dollars for it. That is a sneak.

4 Line of credit. Why would you call money that was
5 your income if it was his income, which he's claiming was his
6 income, and it was his right to keep it, a line of credit to
7 your accountant?

8 Visits to Mexico. Twice he goes to Mexico and twice
9 he sees Mr. Ramos. Mr. Ramos is obviously involved. He sees
10 Mr. Ramos and he gives him the change away from the Turks &
11 Caicos account back to the F.G.G. account, and he gives him --
12 rescinds the power of attorney, and both times Mr. Gireud and
13 Mr. Miller -- Mr. Miller is waiting for him -- walk out and
14 "bing" the phone rings, and who is it? Mr. Ramos -- I mean, who
15 is it? It's Mr. Delgado saying you just went and talked to
16 Mr. Ramos and you better not because they don't want to talk to
17 you. How dare you, my client, talk to the person that you've
18 contracted with.

19 Mr. Delgado is a con artist and a con artist controls
20 everything and that's why he had to control the accounts, but
21 nothing was in his name. If you step back, nothing was in his
22 name. Every one of those e-mails is convoluted.

23 At Government's Exhibit Number 52, after the money is
24 already in his account, it's important, because he's sending it
25 not only to Mr. Adams, but he's sending it to Mr. Gireud. He's

1 telling his own client that he's finalizing the assignment of
2 rights for the first payment. When the first payment is already
3 in his account, he's telling Mr. Gireud that he thinks they can
4 move forward for the first payment to be on April 6th, when the
5 first payment was on March 9th. He's telling Mr. Gireud that he
6 is, oh, he's not going to take the money. The assignment
7 payment will be issued directly to Mitsubishi by trust. My
8 payment --

9 THE COURT: Three minutes.

10 MS. KANOF: -- will be issued to F.G.G., my payment.
11 So he, himself, altered the M.O.U. My payment will be issued to
12 F.G.G., who then wired to my account within 24 hours of receipt.
13 What account were they going to wire? They didn't even know
14 about the Turks & Caicos. How were they going to wire it to his
15 account? What account? He didn't have an account in his name
16 that anybody knew about where it can be wired.

17 If you look at the money, follow the money. Read
18 Linda Medlock's e-mails. This man is not only a con artist, he
19 betrays his own friends. People care about him. He's
20 manipulative, remember vague and convoluted. They care about
21 him and then he hurts them.

22 He did not just get the money from the Turks & Caicos
23 and retain them. He got the \$550,000 that Mr. Kendrick invested
24 in. Who paid it back? Not in Delgado. Mr. Gireud. He got
25 another \$100,000, then 9,000, then 2,600, 2,000, 1,000, 16,000,

1 3,000, 3,000, \$620,000. They think the money came in on
2 April 1st, because that's when it goes to the F.G.G. account,
3 but, no, it was -- he held it for a month. Where did the
4 interest go, by the way? And what happens? Mr. Gireud honestly
5 then writes him a check for \$620,000. Does he say, oh, no, no,
6 I already took the money upfront in my Turks & Caicos account?
7 No, he doesn't say that. And then another 29,000. There's
8 nothing in the M.O.U. about expenses, but if you add all of that
9 money together -- and the checks are in 143 or 144.

10 Mr. Delgado, in addition to what he took into the
11 Turks & Caicos account and then spent to buy a house and a condo
12 and cars, and a Florence hotel, by the way, which was with his
13 accountant's credit card, again, hiding who's really paying for
14 it, he gets another \$550,000 in expenses, but most importantly,
15 \$4.6 million allegedly for letters of credit that never existed.
16 What did he tell his partners? Oh, the union is -- we're going
17 to pledge the union's retirement account. Oh, no, no, no. I
18 got them at a New York bank, the same HSCB bank. Oh, and it
19 cost me \$4.6 million, so that brilliant engineer, who trusted
20 him and loved him like a brother, let him have \$4.6 million.
21 And you hear about it in the very end, you hear about it.

22 THE COURT: 30 seconds, Ms. Kanof.

23 MS. KANOF: Thank you, Your Honor.

24 Ladies and gentlemen of the jury, Mr. Delgado posed a
25 question when he did all of this deception. It was catch me if

1 you can. And you ladies and gentlemen, you have the opportunity
2 to say you're caught. Thank you.

3 THE COURT: Thank you, Ms. Kanof.

4 Ladies and gentlemen, you've heard all you are going
5 to hear. We'll send back a charge that'll be clearly marked for
6 the presiding juror and copies for the rest of you. Once all 12
7 of you are together in the jury room, you'll begin your
8 deliberations. You can begin today. If you don't want to
9 continue today, you can send us a note that you'd rather start
10 tomorrow and we're happy to start tomorrow. Just let us know
11 what time you want to do that.

12 Mrs. Lara, if you'll remain in the courtroom, I'll
13 give you some further instructions.

14 COURTROOM SECURITY OFFICER: All rise.

15 (Jury deliberations at 6:15 p.m.)

16 THE COURT: Ms. Lara, there's a jury service more
17 onerous than primary jurors. It's that of an alternate juror,
18 because you sit through all of the evidence, suffer through
19 everything they suffer through and you don't get to go back and
20 deliberate. I apologize to you for that, but I thank you for
21 serving as our alternate. I know you had a couple of issues
22 that you had to deal with in doing that and I thank you for your
23 service. On behalf of everyone involved in the trial and on
24 behalf of the members of our community, thank you for your
25 service.

1 Do you have any personal items from the jury room,
2 please retrieve them. After that you are free to go. You're
3 free to discuss the case with whomever you want. You are also
4 to refuse the case, if you'd rather not discuss it. Thank you
5 so much for your service.

6 JUROR LARA: Thank you.

7 (Alternate excused.)

8 THE COURT: All right. And thanks to both sides. I
9 very much enjoy trying cases. I appreciate both of you for
10 bringing the case to trial. Good luck. We're in recess.

11 (JURY CONTINUES TO DELIBERATE 6:16 p.m. to 6:23 p.m.)

12 THE COURT: Let the record reflect that all members of
13 the jury are present, the United States through its assistant
14 United State's attorneys are present, the defendant and his
15 counsel are present.

16 Ladies and gentlemen of the jury, I received a note
17 indicating that you'd like to break for the evening and return
18 tomorrow morning at 9 o'clock to resume your proceeding; is that
19 correct?

20 FOREPERSON: Yes, Your Honor.

21 THE COURT: We're going to recess for the evening. I
22 would remind you of the instructions I gave you last week about
23 not discussing the case amongst yourselves or with anyone else
24 until you're all 12 back together tomorrow morning in the jury
25 room. With that, we're in recess until 9:00.

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COURT SECURITY OFFICER: All rise.
(Proceedings conclude at 6:23 p.m.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature: /S/KATHLEEN A. SUPNET
Kathleen A. Supnet, CSR

December 31, 2018
Date

KATHLEEN A. SUPNET, CSR